

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

RICHMOND DIVISION

EDDIE A. BANKS,

Petitioner,

v.

CIVIL ACTION NO. 3:07-CV-746

GENE JOHNSON, ET AL.,

Respondents.

NOTICE OF MOTION PURSUANT TO LOCAL RULE 7(K)

**TO: Eddie A. Banks
Greensville Correctional Center
901 Corrections Way
Jarratt VA, 23870-0614**

PLEASE TAKE NOTICE that the respondents have filed a Motion, which is attached to this Notice. In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), and Local Rule 7(K), the petitioner is advised that he is entitled to file a response opposing this Motion by filing counter-affidavits, statements, exhibits or other legal or factual material that supports his position in the case. In addition to such material, the petitioner is entitled to file a legal brief in opposition to the one filed by the respondents.

An affidavit is a sworn statement of facts made on personal knowledge, and affidavits may be submitted by the petitioner and any other witnesses. There are two alternative ways to submit an affidavit to

the Court, one of which must be followed. One way is for the person making the affidavit to sign the affidavit and swear to its truth before a notary public. The other way, which does not require a notary public, is for the person making the affidavit to sign the affidavit and certify that he signs under penalty of perjury and understands that he may be prosecuted if the facts he sets forth are untrue.

The petitioner must identify all facts stated by the respondents with which the petitioner disagrees. In addition, the petitioner must set forth, either in his own affidavit or the affidavits of other witnesses, his version of the facts. The petitioner, in his affidavits and exhibits, should address himself as clearly as possible to the issues and facts stated in the complaint and in the motion filed by the respondents.

In deciding the motion for summary judgment, the Court may assume that facts identified by the respondents in his listing of material facts are admitted, unless such a fact is controverted in the statement of genuine issues filed by the petitioner in opposition to the motion. Therefore, the petitioner may wish to clarify the issues by including a separate section listing all material facts with which he disagrees and also by citing to any parts of the record he relied on to support the facts he alleges to be in dispute.

The petitioner is further advised that if he does not submit any papers to the Court, and send a complete copy to counsel for respondents, within twenty (20) days of the date of this Notice, the Court will decide the

motion on the papers already filed by the petitioner and the respondents, including any affidavits and other papers submitted in conjunction with the Motion filed by the respondents. The Court may then enter judgment for the respondents. If the Court enters judgment for the respondents, the case is over and the Court has decided against the petitioner.

Respectfully submitted,

GENE JOHNSON, ET AL.,
Respondents herein.

/ s/ _____
Robert H. Anderson, III
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CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2008, I have electronically filed the foregoing notice with the Clerk of Court using the CM/ECF system, and I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF non-participant: petitioner, Eddie A. Banks, Greensville Correctional Center, 901 Corrections Way, Jarratt, Virginia, 23870-0614.

/s/ _____
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